

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXXX

Petitioner

v

File No. 123034-001-SF

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 6th day of January 2012
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On August 24, 2011, XXXXX, authorized representative of XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under Public Act No. 495 of 2006, MCL 550.1951 *et seq.*

The Petitioner has health care coverage through the State of Michigan. The plan, administered by Respondent Blue Cross Blue Shield of Michigan (BCBSM), is self-funded. Act 495 authorizes the Commissioner to conduct external reviews for state and local government employees who receive health care benefits in a self-funded plan. Under Act 495, the reviews are conducted in the same manner as reviews conducted under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

Because the case involves medical issues, the Commissioner assigned the case to an independent medical review organization. The reviewer's analysis and recommendations were submitted to the Commissioner on September 13, 2011. A copy of the complete report is being provided to the parties with this Order.

II. FACTUAL BACKGROUND

The Petitioner has a history of cardiac problems including a condition known as "recurrent paroxysmal atrial fibrillation." His doctor prescribed mobile cardiac outpatient telemetry (MCOT) services from December 13, 2010 to January 2, 2011, to monitor his

cardiovascular functions. MCOT includes two elements: a device worn by a patient which transmits signals to a monitoring station where the cardiovascular functions are read and evaluated. The device and monitoring services are both provided by an XXXXX company, XXXXX, Inc. The charge for the MCOT services is \$4,500.00.

BCBSM denied coverage, concluding that the procedure is investigational and, therefore, not a benefit under the certificate.

The Petitioner appealed the denial through BCBSM's internal grievance process. BCBSM held a managerial-level conference, and issued a final adverse determination dated July 29, 2011, affirming its position.

III. ISSUE

Did BCBSM properly deny coverage for the Petitioner's heart monitoring as investigational?

IV. ANALYSIS

BCBSM's Argument

In its final adverse determination, BCBSM wrote:

. . . We are unable to allow payment for the monitoring service in question because it is considered to be investigational under the terms of your contract. Investigational services are not a benefit.

As explained on page 44 of *Your Benefit Guide* for the State Health Plan:

What is not covered under the State Health Plan PPO

- Services, care, devices or supplies considered experimental or investigative

There have not been enough studies to prove that this type of monitoring is any better than the other currently available heart monitoring systems in improving patient health outcomes. Therefore, real-time outpatient cardiac monitoring (also known as mobile outpatient cardiac telemetry or MOCT) is experimental/investigational.

Petitioner's Argument

The Petitioner's representative, in the request for external review wrote:

. . . Contrary to the finding in the Plan Denial Letter, and the denial of the first appeal the Services are well-established as clinically effective and are a covered Plan benefit that were medically necessary and appropriate for this Patient. This conclusion is supported by the clinical determinations of the Ordering Physician,

the standards of care in the medical community, studies in peer-reviewed and other medical literature, the terms of the Patient's Plan coverage and applicable law.

. . . This technology was approved by the FDA in November 1998 and is covered by the Level 1 CPT codes 93229 for the technical component and 93228 for the professional component. Mobile cardiovascular telemetry services for the indication involved in this case have now been used effectively by the medical community in the United States for over a decade, and the health plans that cover this clinically valuable service for this indication include, among others, Medicare . . . Tricare, Highmark BC/BS, Independence BC/BS, Wellmark BCBS, Aetna, Cigna, and Humana.

Commissioner's Review

The question of whether the Petitioner's heart monitor was investigational for treatment of his condition was presented to an independent review organization (IRO) for analysis as required by Section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer is a physician in active practice certified by the American Board of Internal Medicine with a subspecialty in cardiovascular disease. The IRO reviewer's report includes the following analysis and conclusion:

There appears to be no established indication for the use of Mobile Cardiovascular Telemetry Surveillance in this enrollee's case. There are no guidelines that prompt monitoring several months after ablation therapy.

. . . At this juncture, the rationale for extended telemetry monitoring is not clear and its use in this setting is not in keeping with national standards of care. The usual rationale of performing a diagnostic test is that the results should lead to a potential change in management, but it is not clear that this was anticipated. If the procedure was for the purpose of determining whether long term anticoagulation should be prescribed, then warfarin should not have been discontinued prior to the procedure. Since the enrollee reported few symptoms, and was satisfied with the outcome of the ablation procedure, the telemetry monitoring was not for determination of symptomatic arrhythmias that would conceivably lead to another ablation procedure, or additional pharmacologic therapy. It is not clear as to how the results of the MCOT would affect the enrollee's further treatment.

Recommendation:

It is the recommendation of this reviewer that the denial of coverage issued by Blue Cross Blue Shield of Michigan for Mobile Cardiovascular Telemetry Surveillance be upheld.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO's recommendation is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16) (b). The IRO reviewer's analysis is based on expertise and professional judgment and the Commissioner can discern no reason why the recommendation should be rejected in the present case.

V. ORDER

Respondent Blue Cross Blue Shield of Michigan's final adverse determination of July 29, 2011, is upheld. BCBSM is not required to cover the Petitioner's mobile cardiac outpatient telemetry (MCOT) services.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

R. Kevin Clinton
Commissioner